

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GRAHAM ENGINEERING CORP., : **CIVIL ACTION NO. 1:16-CV-2526**

:
Plaintiff : **(Chief Judge Conner)**

:
v.

DANIEL SCHILKE, :

:
Defendant :

ORDER

AND NOW, this 13th day of October, 2017, upon consideration of the motion (Doc. 36) filed by plaintiff Graham Engineering Corporation (“Graham”) for leave to file a second amended complaint against defendant Daniel Schilke (“Schilke”) pursuant to Federal Rule of Civil Procedure 15(a)(2), and Graham’s brief (Doc. 37) in support thereof, wherein Graham asserts that amendment is necessary to plead additional facts directed to Schilke’s “actual efforts to compete” and “further demonstrate that the claims asserted . . . are anything but speculative,” (see id. at 2), and further upon consideration of the opposition (Doc. 44), wherein Schilke suggests that the interests of justice warrant denial of Graham’s motion, (see id. at 1-2, 10-19), and the court observing that Rule 15(a)(2) directs the court to “freely give leave when justice so requires,” FED. R. CIV. P. 15(a)(2), and that the decision whether to grant leave to amend is committed to the sound discretion of the district court, see Lorenz v. CSX Corp., 1 F.3d 1406, 1413 (3d Cir. 1993) (citing Bechtel v. Robinson, 886 F.2d 644, 647 (3d Cir. 1989)), and that courts will generally grant leave to amend unless an opposing party demonstrates undue delay, bad faith on the part

of the movant, or prejudice to the non-moving party, see Arthur v. Maersk, Inc., 434 F.3d 196, 204 (3d Cir. 2006); see also Foman v. Davis, 371 U.S. 178, 182 (1962); Combined Ins. Co. of Am. v. Bastian, No. 09-CV-111, 2009 WL 5111794, at *1 (M.D. Pa. Dec. 17, 2009), and, following a review of the proposed amended pleading (Doc. 36-2), and in light of the minor alterations therein, and upon examining Schilke's assertions with respect to bad faith, futility, and prejudice, (Doc. 44 at 10-19), and the court concluding that the interest of justice favors granting leave to amend under the circumstances, it is hereby ORDERED that:

1. Graham's motion (Doc. 36) for leave to file a second amended complaint is GRANTED.
2. Graham shall file its second amended complaint on or before October 17, 2017.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania